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Attorneys for Defendant
Google Inc.

IN THE UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF NEW YORK

THE AUTHORS GUILD, INC., Associational Plaintiff, BETTY MILES, JOSEPH GOULDEN, and JIM BOUTON, on behalf of themselves and all other similarly situated,
 	
        Plaintiffs,
 	
    v.
 	
GOOGLE INC.,
 	
        Defendant.
	Civil Action No. 05 CV 8136 (DC)
	ECF Case

**DECLARATION OF DAN CLANCY IN SUPPORT OF DEFENDANT GOOGLE INC.'S
MOTION FOR SUMMARY JUDGMENT**

I, Dan Clancy, hereby declare under penalty of perjury:

1.   I am an Engineering Director at Google Inc. I submit this declaration in support of Defendant's Motion for Summary Judgment. I make this declaration based on personal knowledge of the facts and circumstances set forth herein.

2.   I have been involved in the Google Books project since January of 2005. I had a central role in managing the development of that project. In addition to engineering, I have been involved in virtually all other areas of the Google Books project, and am familiar with its development and operation.

I.   THE PURPOSE OF GOOGLE BOOKS

3.   Google Books was born of the realization that much of the store of human knowledge lies in books on library shelves and thus is very difficult to find. Research libraries house millions of books. These works span all types: most are academic publications; most are out of print; many were obscure even when first published. Despite the importance of these vast stores of human knowledge, there exists no centralized way to search these texts to identify which might be germane to a particular topic.

4.   Google Books aimed to solve that problem by giving everyone access to an index of these books. Armed with the results of a search of that index, users can borrow or buy those books of particular interest to them, either in hard copy from a bookstore down the street or in digital form if the book is so sold. (Of course, if the book is in the public domain, the user may read the book on Google Books for free.)

II.   BUILDING GOOGLE BOOKS

5.   In order to build that index, in 2004, Google began scanning books in the collections of several significant research libraries, including the University of Michigan and the University of California. Google entered into agreements with these libraries pursuant to which

the libraries' books would be scanned, after which the physical copies of the books would be returned to the libraries. The agreements also provide a mechanism for the libraries to make digital copies of the scans of their own books for their own uses, and the libraries promise contractually to abide by the copyright laws with respect to those copies that they make. A true and correct copy of one such agreement, with the University of Michigan, is attached hereto as Exhibit A.

6.   A book is scanned at one of a small number of scan centers. Physical access to the centers is limited to Google employees and contractors. Google analyzes each scan and creates an overall index of all the books that have been scanned. This index links the words or phrases appearing in each book with all of the locations in all of the books in which that word or phrase is found. It allows a search for a particular work or phrase to return a result that includes the most relevant books in which that word or phrase is found.

III.   USING GOOGLE BOOKS

7.   Google Books allows a user to search the full text of the Google Books corpus using a query of the user's own design. A search for "Archimedes" using Google Books, for example, locates many thousands of books in less than one second, and returns the most relevant books that contain any reference to Archimedes. This result can only be achieved by digitizing the full text of the books contained in the index. Without digitizing the whole book, there is no way to know whether a particular book mentions Archimedes (unless Archimedes happens to be one of the few subject headings assigned to the book by the librarian who cataloged it) without spending thousands of hours reading the index at the back of every book about ancient Greece (and even then one would miss the mention of Archimedes in, for example, novels).

8.   When a user performs a search, Google Books uses the index to generate search results for a user's query, returning a list of books in which that user's search term appears.

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Attached hereto as Exhibit B is a true and correct copy of a search results page for the query "Steve Hovley." This screen shot, as well as the others in this declaration, was taken on July 7, 2012; many factors may cause search results to change over time, so the results may be different if that search is run at a different time.

9.   A user can click on a particular result to be directed to an "About the Book" page, allowing the user to obtain more information about the book in question. This page includes links to sellers of the book and/or libraries listing the book as part of their collections. No advertisements have ever appeared on any About the Book page for any book that is part of the Library Project. Attached hereto as Exhibit C is a true and correct copy of a portion of an About the Book page that is displayed when one clicks on Ball Four in the search results page pictured in Exhibit B.

10.   In some cases, users will also see text from the book. Ball Four is in "snippet view," so the user looking for books which discuss Steve Hovley can see, on the About the Book page, that there are 34 references to Hovley in the book, and can see three of those references in the context of short "snippets," each about an eighth of a page long. Attached hereto as Exhibit D is a true and correct copy of a different portion of the About the Book page depicted in Exhibit C, showing the snippets which are displayed.

11.   Not all books are placed in "snippet view." Works whose text is organized in short "chunks"-for example, dictionaries, cookbooks, and books of haiku-are excluded from snippet view altogether. This determination is made by human operators who examine each book to ascertain whether it is organized in short "chunks," and no book is designated for "snippet view" without such a manual review. Google also excludes works a rightsholder has asked Google not to display and renders the text of those books unsearchable. Any rightsholder

can exclude a book simply by filling out an online form which was been available since 2005.

12.   For excluded works, users may view bibliographic information about the book but not text from the book itself. For example, Google has scanned several editions of Black's Law Dictionary, but none are searchable or viewable, as indicated by the "No preview" designation in the screenshot below-except the 1910 edition, which is in the public domain. Attached hereto as Exhibit E is a true and correct copy of an excerpt from a search page for "Black's Law Dictionary." Public domain books like the 1910 edition of Black's Law Dictionary can be viewed and downloaded in their entirety.

13.   Rightsholders may also request that Google display more text through the Partner Program. The rightsholder can choose what percentage of the text of the book to display – usually at least 20%. For example, Jim Bouton's book *Foul Ball* is in the Partner Program, and his publisher has chosen to allow some pages to be viewed. Attached hereto as Exhibit F is a true and correct copy of a page showing *Foul Ball* in Partner Program preview.
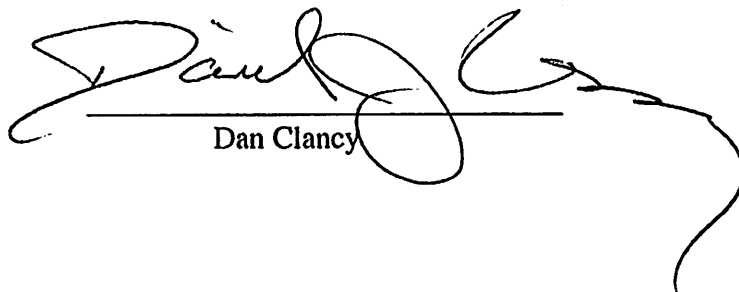
14.   Over 45,000 publishers have included works within the Partner Program, including HarperCollins, Penguin, Simon & Schuster, and Macmillan.

15.   Many users find Google Books to be of great assistance in performing traditional research tasks. Attached hereto as Exhibit G is a true and correct copy of a web page at http://books.google.com/googlebooks/testimonials.html reflecting user comments on Google Books.The corpus has enabled new types of research as well. Text from the books was used as an input to the "n-grams" research project. This project examines how frequently different terms or phrases appear in books published at different times.   Attached hereto as Exhibit H is a true and correct copy of Jean-Baptiste Michel et al., Quantitative Analysis of Culture Using Millions of Digitized Books, 331 SCIENCE 176 (2011), *available at*

http://www.sciencemag.org/content/early/2010/12/15/science.1199644. I participated in the development of the "n-grams" project, and am named as one of the authors of that paper.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 26 day of July, 2012 at Mountain View, California.

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Dan Clancy